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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

FINISAR CORPORATION, a Delaware corporation,

Plaintiff,

v.

U.S. BANK TRUST NATIONAL ASSOCIATION, a national banking association, not in its individual capacity, but solely in its capacity as Indenture Trustee in behalf of all Holders of Finisar Corporation's 5¼% Convertible Subordinated Notes due 2008, 2½% Convertible Senior Subordinated Notes due 2010, and 2½% Convertible Subordinated Notes due 2010; and DOES 1 through 10, inclusive,

Defendants

AND RELATED COUNTERCLAIMS.

Case No. 5:07-CV-04052-JF (PVT)

**[Proposed] ORDER GRANTING
PLAINTIFF FINISAR CORPORATION'S
MOTION TO:**

- (1) COMPEL PRODUCTION OF DOCUMENTS;**
- (2) COMPEL DEPOSITION TESTIMONY; AND**
- (3) FOR ADDITIONAL TIME TO COMPLETE DEPOSITION**

Date: **Tuesday, June 17, 2008**
Time: **10:00 a.m.**
Courtroom: **5 (Magistrate Judge Trumbull)**

District Judge: Hon. Jeremy Fogel
Magistrate Judge: Hon. Patricia V. Trumbull

Complaint Filed: June 22, 2007
Trial Date Set: None Yet

1 Plaintiff Finisar Corporation's Motion: (1) To Compel Production of Documents; (2) To
 2 Compel Deposition Testimony; and (3) For Additional Time to Complete Deposition (the
 3 "Motion") was filed in the above-captioned action (the "Action") on May 13, 2008 and heard on
 4 June 17, 2008. The Court, having considered the written and oral submissions of the parties in
 5 connection with the Motion, and good cause appearing therefor, GRANTS the Motion, and finds
 6 and orders as follows:

7 FINDINGS:

8 1. Communications between defendant U.S. Bank Trust National Association ("U.S.
 9 Bank") and/or its counsel, on the one hand, and the holders of notes issued by plaintiff Finisar
 10 Corporation ("Finisar") under the trust indentures dated October 15, 2001, October 15, 2003, and
 11 October 12, 2006 (the "Indentures") at issue in the Action, on the other hand, are not privileged.

12 ORDER:

13 1. Within ten (10) days of the date hereof, if and to the extent not previously
 14 produced, U.S. Bank shall produce to Finisar the documents identified in Schedule "B" to the
 15 Motion;

16 2. At a time and place of Finisar's choosing, U.S. Bank shall produce Diana L.
 17 Jacobs for further deposition both in her individual capacity and as the designee of U.S. Bank
 18 pursuant to Federal Rule of Civil Procedure 30(b)(6); and

19 3. Finisar may have up to seven (7) additional hours to conclude the deposition of
 20 Ms. Jacobs, exclusive of time previously spent in deposition.

21
 22 DATED: _____

 23 Hon. Patricia V. Trumbull
 24 Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:
D. Anthony Rodriguez, drodriguez@mofo.com; Abby E. Wilkinson, awilkinson@faegre.com; Eva K. Schueller, eschueller@mofo.com; Michael B. Fisco, mfisco@faegre.com; Edward T. Wahl, ewahl@faegre.com and Paul T. Friedman, pfriedman@mofo.com.

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